



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

CHARLES L. STRINGER

PLAINTIFF

VS.

CAUSE NO.

*3:05CV 280WB AGN*

KATHLEEN MAY AND  
SAFeway INSURANCE COMPANY

DEFENDANTS

**NOTICE OF REMOVAL  
OF ACTION PURSUANT TO 28 U.S.C. § 1331 & 1332**

TO: **Honorable Barbara Dunn, Clerk**  
**Hinds County Circuit Court**  
P.O. Box 327  
Jackson, MS 39205

***Charles L. Stringer, pro se***  
136 Kimbrough Drive  
Jackson, MS 39204

**PLEASE TAKE NOTICE** that this Notice of Removal and the exhibit attached hereto have been filed this day in the United States District Court for the Southern District of Mississippi, Jackson Division, for and on behalf of the Defendants, **Kathleen May and Safeway Insurance Company**. You are hereby served with a copy of this Notice of Removal of said cause to the United States District Court for the Southern District of Mississippi, Jackson Division, and you will be mindful of the provisions of 28 U.S.C. § 1441, *et seq.* Please take notice hereof and govern yourselves accordingly. As its short and plain statement of the grounds for removal of this civil action, the Defendants would show unto the Court the following:

**I.**

The Defendants, Kathleen May and Safeway Insurance Company, pursuant to 28 U.S.C. Section 1446, hereby notice removal of this civil action to the United States District Court for the Southern District of Mississippi, Jackson Division. This case originally was filed by the Plaintiff, *pro se*, in the County Court of Hinds County, Mississippi, a certain civil action styled, "*Charles L. Stringer v. Kathleen May and Safeway Insurance Company*", being Civil Action No. 04-6457 on the docket of said court.

## II.

The basis of removal is the existence of a Federal Question as asserted by the Plaintiff in his Complaint. Said Federal Question being based on allegations of violations of the 8<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution. *See Exhibit "A", page 4.* The Plaintiff further asserts, in his Complaint, that jurisdiction is based on 42 U.S.C. § 1983 and 28 U.S.C. § 1343. Finally, the Complaint contains allegations of civil rights violations "under the United States Constitution". *See Exhibit "A", page 5.* As such, this Court has original jurisdiction.

In the alternative and jointly, these Defendants assert that the basis of removal is also the existence of diversity of citizenship between the Plaintiff and the Defendant, Safeway Insurance Company, with an amount in controversy exceeding \$75,000.00, exclusive of interests and costs, which gives the Court jurisdiction pursuant to 28 U.S.C. Section 1332. The Plaintiff has named Kathleen May, a Mississippi resident, as a Co-Defendant to this cause of action. The Defendant, Safeway Insurance Company, asserts that May has been fraudulently joined and, therefore, May's citizenship should not be considered in determining whether diversity of citizenship exists. *See Williams v. Hensen and Scottsdale Insurance Company*, 42 F. Supp. 2d 628 (S.D. Miss. 1999). The Plaintiff's Complaint does admit that he is a resident of the State of Mississippi. The Defendant, Safeway Insurance Company, is an entity organized in a state other than the State of Mississippi, with its principal place of business in a state other than the State of Mississippi.

## III.

The attached certified record of the Hinds County Circuit Court is provided pursuant to 28 U.S.C. Section 1446(a). Service of process was made pursuant to the *Mississippi Civil Rules of Civil Procedure* upon the Defendant on or about December 10, 2004. Therefore, thirty (30) days have not elapsed since service of process on any Defendant.

Respectfully submitted, this the 7<sup>th</sup> day of January, 2005.

**KATHLEEN MAY AND SAFEWAY  
INSURANCE COMPANY, DEFENDANT**

By: \_\_\_\_\_

WADE G. MANOR

OF COUNSEL:

**Wade G. Manor - MSB # 10167**  
**Jeremy D. Hawk -MSB # 101189**  
**SCOTT, SULLIVAN, STREETMAN & FOX, P.C.**  
725 Avignon Drive  
Ridgeland, Mississippi 39157  
Post Office Box 13847  
Jackson, Mississippi 39236-3847  
Telephone No. (601) 607-4800

**CERTIFICATE OF SERVICE**

I, **Wade G. Manor**, counsel of record for Defendants, **KATHLEEN MAY AND SAFEWAY INSURANCE COMPANY**, do hereby certify that I have this date caused to be delivered, **via United States mail, postage prepaid**, a true and correct copy of the above and foregoing document to:

**Charles L. Stringer, pro se**  
136 Kimbrough Drive  
Jackson, MS 39204

( **THIS** the 7<sup>TH</sup> day of January, 2005.

  
\_\_\_\_\_  
**WADE G. MANOR**